

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LAWRENCE HARTFORD; DOUGLAS
MITCHELL; BRETT BASS; SPORTING
SYSTEMS VANCOUVER, INC.;
SECOND AMENDMENT
FOUNDATION, INC.; AND FIREARMS
POLICY COALITION, INC.,

Plaintiffs,

v.

BOB FERGUSON, in his official capacity
as Washington State Attorney General;
JOHN R. BATISTE, in his official capacity
as Chief of the Washington State Patrol;
JOHN GESE, in his official capacity as
Sheriff for Kitsap County, Washington;
CLAYTON MYERS, in his official
capacity as Sheriff for Kittitas County;
JOHN HORCH, in his official capacity as
Sheriff for Clark County; ADAM
FORTNOY, in his official capacity as
Sherriff for Snohomish County; CHAD M.
ENRIGHT, in his official capacity as
County Prosecutor for Kitsap County;
GREGORY L. ZEMPEL, in his official
capacity as County Prosecutor for Kittitas
County; TONY GOLIK, in his official
capacity as County Prosecutor for Clark
County, JASON CUMMINGS, in his
official capacity as County Prosecutor for
Snohomish County, and ALLIANCE FOR
GUN RESPONSIBILITY

Defendants.

CASE NO. 3:23-cv-05364-RJB

ORDER ON MOTION FOR LEAVE
TO FILE BRIEF AMICI CURIAE

1 This matter comes before the Court on the Motion for Leave to File Brief Amici Curiae
2 on Behalf of Washington Gun Rights and the American Firearms Association in Support of
3 Plaintiffs’ Motion for Preliminary Injunction. Dkt. 34. The Court has considered the pleadings
4 filed regarding the motion and the remaining file.

5 **I. FACTS AND PROCEDURAL HISTORY**

6 In this case, the Plaintiffs challenge a recently enacted Washington State assault weapons
7 regulation, Substitute House Bill 1240 (“HB 1240”), arguing that it violates their constitutional
8 right to bear arms. Dkt. 1. The Plaintiffs’ motion for preliminary injunction was denied on June
9 6, 2023. Dkt. 55. The facts and procedural history are in the June 6, 2023 Order Denying
10 Motion for Preliminary Injunction (Dkt. 55 at 1-3) and are adopted here. The moving parties
11 seek leave to file an amici curiae brief in support of the Plaintiffs’ motion for preliminary
12 injunction. Dkt. 34.

13 **II. DISCUSSION**

14 **A. STANDARD FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF**

15 The role of amicus curiae is to “assist[] in a case of general public interest, supplement[]
16 the efforts of counsel, and draw[] the court’s attention to law that escaped consideration.”
17 *Miller-Wohl Co., Inc. v. Comm’r of Labor & Indus. State of Mont.*, 694 F.2d 203, 204 (9th Cir.
18 1982). They are not parties to the case. *Id.*

19 **B. MOTION FOR LEAVE TO FILE BRIEF**

20 The motion (Dkt. 34) should be denied as moot. The motion for preliminary injunction
21 was denied on June 6, 2023. Dkt. 55.

22 Moreover, the Proposed Amici do not meet the requirements of *Miller-Wohl* - they do not
23 supplement the efforts of the Plaintiffs’ counsel or draw the Court’s attention to relevant law
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1 which was not addressed. The Proposed Amici include extra-record facts in the briefs. Insofar
2 as it may be appropriate to add claims or facts, it should be done through the parties' counsel, so
3 the protections found in due process, the Federal Rules of Civil Procedure relating to discovery,
4 and the Federal Rules of Evidence are assured. While the Court has considered the Proposed
5 Amici's brief, it is not relevant to, and the Court did not consider it, in the decision on the motion
6 for preliminary injunction.

7 **IT IS SO ORDERED.**

8 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
9 to any party appearing pro se at said party's last known address.

10 Dated this 12th day of June, 2023.

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13 ROBERT J. BRYAN
14 United States District Judge
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